

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1165 CS

Florida Retirement System

SPONSOR(S): Barreiro

TIED BILLS:

IDEN./SIM. BILLS: SB 2182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Governmental Operations Committee</u>	<u>6 Y, 0 N, w/CS</u>	<u>Mitchell</u>	<u>Williamson</u>
2) <u>Local Government Council</u>	<u>8 Y, 0 N</u>	<u>DiVagno</u>	<u>Hamby</u>
3) <u>Fiscal Council</u>	<u></u>	<u>Dobbs</u>	<u>Kelly</u>
4) <u>State Administration Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Medical examiners and certain forensic employees were added to the Special Risk Class in 2005. This bill permits these medical examiners and forensic employees to purchase additional retirement credit to upgrade their previous service in the Florida Retirement System to Special Risk Class service. The bill requires the contributions for upgrading previous service to be equal to the difference in the contributions paid and the contribution rate in effect for the period being claimed, plus interest. The bill permits an employer to purchase upgraded credit on behalf of a member. The bill provides legislative findings and declares that it fulfills an important state interest.

The bill as written creates an unfunded liability to the Florida Retirement System which, when amortized, is estimated to cost \$327,000 annually. The unfunded liability can be addressed by amending the bill to add 0.01 percent to the employer contribution rate for the Special Risk Class.

This bill would take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill increases the members of the Special Risk Class who may upgrade previous service to Special Risk Class service.

B. EFFECT OF PROPOSED CHANGES:

Background on the Florida Retirement System

Chapter 121, Florida Statutes, is the Florida Retirement System Act and it governs the Florida Retirement System (FRS). The FRS is administered by the secretary of the Department of Management Services through the Division of Retirement.¹

The FRS is the primary retirement plan for employees of state and county government agencies, district school boards, and community colleges and universities.² The FRS also has participating employees of 151 cities and 186 independent special districts who have elected to join the system.³

The FRS offers a defined benefit plan that provides retirement, disability, and death benefits for nearly 600,000 active members and over 270,000 retirees, surviving beneficiaries, and Deferred Retirement Option Program participants.⁴ Members of the FRS defined benefit plan belong to one of five membership classes:

Regular Class ⁵	570,888 members	88.00%
Special Risk Class ⁶	68,466 members	10.59%
Special Risk Administrative Support Class ⁷	80 members	0.01%
Senior Management Service Class ⁸	6,823 members	1.10%
Elected Officers Class ⁹	2,122 members	0.30%

Each class is separately funded through an employer contribution of a percentage of the gross compensation of the member based on the costs attributable to members of that class and as provided in chapter 121, Florida Statutes.¹⁰

Expansion of the Special Risk Class and Upgraded Service

The Special Risk Class of the FRS was created to recognize that certain employees, because of the nature of the work they perform,¹¹ may need to retire at an earlier age with less service than other types of employees.¹² The only employees originally in the Special Risk Class were law enforcement

¹ Fla. Stat. § 121.025 (2005).

² Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at <http://www.frs.state.fl.us/> (last visited Jan. 11, 2006).

³ Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at <http://www.frs.state.fl.us/> (last visited Jan. 11, 2006).

⁴ Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at <http://www.frs.state.fl.us/> (last visited Jan. 11, 2006).

⁵ Fla. Stat. § 121.021(12) (2005).

⁶ Fla. Stat. § 121.0515 (2005).

⁷ Fla. Stat. § 121.0515(7) (2005).

⁸ Fla. Stat. § 121.055 (2005).

⁹ Fla. Stat. § 121.052 (2005).

¹⁰ See, e.g., Fla. Stat. 121.055(3)(a)1. (2005).

¹¹ Fla. Stat. § 121.0515(1) (2005) (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).

¹² Fla. Stat. § 121.0515(1) (2005) (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).

officers, correctional officers, and firefighters.¹³ Starting in 1999, however, the Legislature began expanding the Special Risk Class:

1999	Emergency Medical Technicians and Paramedics ¹⁴
2000	Community-Based Correctional Probation Officers ¹⁵ Twenty-four types of employees of correctional or forensic facilities or institutions ¹⁶
2001	Youth Custody Officers ¹⁷
2005	Employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline ¹⁸

Another legislative trend that has followed the expansion of the Special Risk Class is allowing members who have previous service in another class of the Florida Retirement System, usually the Regular Class, to purchase additional retirement credit to upgrade the previous service to Special Risk Class service. In 2001, the Legislature permitted emergency medical technicians and paramedics to purchase credit for upgraded service.¹⁹ In 2002, the Legislature allowed members whose responsibilities included fire prevention or fire fighting training to purchase credit for upgraded service.²⁰

Effect of Bill on Upgraded Service for Medical Examiners and Certain Forensic Employees

This bill permits medical examiners and certain forensic employees who were added to the Special Risk Class in 2005 to purchase additional retirement credit to upgrade previous service in the Florida Retirement System to Special Risk Class service.²¹ The bill requires the contributions for upgrading previous service to Special Risk Class service to be equal to the difference in the contributions paid and the contribution rate in effect for the period being claimed, plus interest at a rate of 6.5 percent a year, compounded annually until the date of payment. The bill permits an employer to purchase upgraded credit on behalf of a member. The bill provides legislative findings and declares that it fulfills an important state interest.

Constitutional Requirements for Retirement or Pension System Increases

Article X, section 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after

¹³ Ch. 78-308, Laws of Fla.

¹⁴ Ch. 99-392, Laws of Fla., § 23.

¹⁵ Ch. 2000-169, Laws of Fla. § 29.

¹⁶ Ch. 2000-169, Laws of Fla. § 29. (The following employees must spend at least 75 percent of their time performing duties which involve contact with patients or inmates to qualify for the Special Risk Class: dietitian; public health nutrition consultant; psychological specialist; psychologist; senior psychologist; regional mental health consultant; psychological services director-DCF; pharmacist; senior pharmacist (class codes 5248 and 5249); dentist; senior dentist; registered nurse; senior registered nurse; registered nurse specialist; clinical associate; advanced registered nurse practitioner; advanced registered nurse practitioner specialist; registered nurse supervisor; senior registered nurse supervisor; registered nursing consultant; quality management program supervisor; executive nursing director; speech and hearing therapist; and pharmacy manager.).

¹⁷ Ch. 2001-125, Laws of Fla., § 43.

¹⁸ Ch. 2005-167, Laws of Fla. § 1; codified as Fla. Stat. § 121.0515(2)(h) (2005) (The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility; the forensic discipline must be recognized by the International Association for Identification and the member must qualify for active membership in the International Association for Identification). See also Int'l Ass'n for Identification at <http://www.theiai.org/> (last visited Mar. 27, 2006).

¹⁹ Ch. 2001-235, Laws of Fla., § 6.

²⁰ Ch. 2002-273, Laws of Fla., § 16.

²¹ Fla. HB 1165 (2006) (to the extent of the percentages of the member's average final compensation provided in section 121.091(1)(a)2, Florida Statutes).

January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.²²

The bill as written does not address the unfunded liability identified in the actuarial study. The actuarial study of the costs to upgrade the previous service of medical examiners and qualifying forensic employees states:

The projected increase in actuarial liabilities is \$26.4 million offset by the projected cost the members would pay for the eligible service under this proposal of \$22.1 million, which results in the net additional unfunded liabilities of \$4.3 million.²³

The actuarial study further notes that if this unfunded actuarial liability is to be paid for through employer contributions, it will require an overall increase of 0.01 percent in the employer contribution rates for the Special Risk Class.²⁴

C. SECTION DIRECTORY:

Section 1: Amends section 121.0515, Florida Statutes, to permit medical examiners and certain forensic employees to purchase upgraded service in the Special Risk Class.

Section 2: Provides legislative findings and declares that the bill fulfills an important state interest.

Section 3: Provides that this bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

²² Part VII of chapter 112, Florida Statutes, the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of article X, section 14 of the Florida Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. This part is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

²³ Milliman, Inc., Actuarial Study, Service Upgrade for Specified Forensic Workers (Mar. 17, 2006), at p. 4.

²⁴ Milliman, Inc., Actuarial Study, Service Upgrade for Specified Forensic Workers (Mar. 17, 2006), at p. 4.

D. FISCAL COMMENTS:

The Department of Management Services provided the following fiscal note from the enrolled actuary regarding this bill:

The cost proposed by this bill to be paid by the affected members/employees to upgrade the service is not sufficient to pay for this kind of benefit enhancement. Any costs not covered by this pricing structure would be shifted to the system and could result in increased contribution rates for all special risk employers. HB 1165 does not provide a funding source for the additional costs of such an improvement of retirement benefits.²⁵

If the bill were amended to increase the Special Risk Class employer contribution rate to address the unfunded liability, then there would be an estimated annual cost to the state of \$91,000 and \$236,000 to local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Article X, Section 14

Benefit increases to public retirement or pension systems may not be made unless funding is concurrently provided for the increase. This bill does not appear to provide sufficient funding for the proposed benefits increase.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue: Calculation or Funding

To address the expected unfunded liability and its potential constitutional issues, the sponsor may wish to consider amending the bill to provide a funding source.

Drafting Issue: Limited Timeframe

Because the costs of this bill increase for both the employee and the Florida Retirement System for each year in which an employee delays purchase, the sponsor may wish to consider limiting the timeframe in which an employee may avail himself or herself of its provisions.

²⁵ Fla. Dep't of Mgmt. Serv., HB 1165 (2006) Substantive Bill Analysis (Mar. 20, 2006) (on file with dep't).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2006, the Governmental Operations Committee adopted an amendment and reported the bill favorably with committee substitute:

- Amendment 1 provided legislative findings and declared that the bill fulfilled an important state interest.